IN THE HIGH COURT OFJUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
GUARDIAN PETITION NO. 135 OF 2002
in
SUIT NO. 1950 OF 1999
Fatima Mohsin Rasiwala .. Petitioner
vs

Juzar M.Rasiwala & anr .. Respondents

Mr.Huzefa M.Rasiwala,Respondent no. 2 present
CORAM :SMT ROSHAN .S.DALVI, J
DATE: 7th March, 2007

P.C.

1. The above suit is filed by a mother against her two sons. Defendant no.1 expired pending the suit. His heirs have to be brought on record. Two of his heirs are his two minor children, one son and one daughter. A guardian has to be appointed to protect their interest in the suit. Consequently, the original plaintiff has filed this petition for appointment of defendanto.2 as guardian of the minor children of the deceased defendant no.1. The provisions of Order 32 Rules 1 to 14 of C.P.C. would apply to the suit. Hence, this petition is filed. The defendant no.2 who is respondent no. 2 in this petition has appeared before

the Court. He has produced his identification by way of driving licence and his Pan Card. The defendant no.2 has stated in response to the court's querry that he has no conflicting interest with the minor children. He states that the defendant no. 1 was to comply with certain terms and conditions of a document which he failed to comply for which his mother has filed the suit.

2., It is the petitioner's contention that only a male can be appointed guardian of minors. The respondent o. 2 states that the minor children reside with their widowed mother in Pune. He states that he will protect the interest of the minor child and allow the children to act in the suit themselves upon their attaining majority.

3. Since the suit is pending and a guardian has to be appointed for protection of the minors, defendants brought on record of the suit pursuant to the death of the deceased defendant no.1. This Court

would have the jurisdiction to try the petition and appoint guardian for the minor defendants under the provisions of Order 32 Rules 1 to 14.

4. Consequently, Petition is made absolute in terms of prayer (a). The defendant no.2 is appointed guardian of the 2 minor children Kumari Zenab and Master Burhanuddin who are the children of the deceased defendant no.1. This order shall kept in the proceedings of Suit No.1950 of 1999.

5. Suit No.1950 of 1999 be amended accordingly by the petitioner to show the respondent no. 2 as guardian of his 2 minor children of respondent no.1

(Smt R.S.Dalvi, J)